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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,389	09/17/2003	Thomas Vieweg	VD01/08	4424

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Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin, FL 34698

EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,389

Applicant(s)

VIEWEG, THOMAS

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 9-10, the phrase "the upper ends" lacks an antecedent. In claim 1, line 15, the phrase "the central portion" lacks an antecedent. Further, the central portion is not a portion of coil spring 32 but rather is a portion of follower 42. In claim 1, line 22, what portion of follower 42 is intended to be the claimed "an arcuate lowermost extent"? In claim 1, lines 24-26, the phrases "the central portion" and "the central section" lack antecedents. In claim 1, line 31, the phrase "the lower end" lacks an antecedent. In claim 1, lines 33 and 37-38, the phrase "the central portion" lacks an antecedent. In claim 1, lines 41 and 43, the phrase "the central section" lacks an antecedent. Throughout the claims, applicant claims both a "central portion" and a "central section". Are these intended to be the same sections or different sections. Please clarify. In claim 1, lines 42-43, the phrase "the side edges" lacks an antecedent. In claim 1, line 45, the phrase "the annular recess" lacks an antecedent.

In claim 2, line 10, the dimple 56 does not extend upwardly from the central section 44 but rather upwardly from inwardly extending portion 52 (see fig. 4). In claim 2, line 12, the phrase "the annular recess" lacks an antecedent. In claim 4, lines 1-3, the dimple does not extend upwardly from the central portion 44 but rather upwardly from inwardly extending portion 52. Claim 4 lacks a period.

2. The drawings are objected to because lead line 54 (supplemental bend) does not extend to the bend between upwardly extending portion 50 and inwardly extending portion 52 (see fig. 4).

A proposed drawing correction or corrected drawings are required in reply to the Office

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action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Lewis.

Lewis discloses a cartridge magazine system comprising:

- | | |
|--|-----------------|
| a) a hollow case with side, front, and rear faces; | A |
| b) a base plate; | between x and y |
| c) a spring; | attached to B |
| d) a steel follower; and | B, d, f |
| e) a hemispherical dimple located to fit in an annular recess. | e |

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Vieweg or The American Rifleman.

Lewis applies as previously recited. However, undisclosed is a follower fabricated of stainless steel. Vieweg (claim 1) and The American Rifleman (col. 1, No: 7 Clip) each teach a follower fabricated of stainless steel. Applicant is substituting one type of steel follower for

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another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Vieweg or The American Rifleman to the Lewis cartridge magazine and have a cartridge magazine with a stainless steel follower.

7. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Menneking et al..

Menneking et al. disclose a cartridge magazine system comprising:

- a) a hollow case with side, front, and rear faces; 1
- b) a base plate; 1 (bottom)
- c) a spring; 5
- d) a steel follower; and 11, 12
- e) a hemispherical dimple located to fit in an annular recess. 12

8. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Motley.

Motley discloses a cartridge magazine system comprising:

- a) a hollow case with side, front, and rear faces; fig. 1, 2
- b) a base plate; fig. 1, 2 (base)
- c) a spring; 6
- d) a steel follower; and 4, 5
- e) a hemispherical dimple located to fit in an annular recess. 5

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Engh et al. in view of Lewis or Clark.

Engh et al. disclose a cartridge magazine system comprising:

- a) a hollow case with side, front, and rear faces; figs. 2, 3
- b) a base plate; fig. 2, 3

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- c) a spring; y2
- d) a follower; and y
- e) a dimple located to fit in an annular recess. y (see fig. 2)

Engh et al. apply as recited above. However, undisclosed is a dimple that is generally hemispherical in shape. Lewis (e) and Clark (16) each teach a dimple that is generally hemispherical in shape. Applicant is substituting one shape dimple for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Lewis or Clark to the Engh et al. magazine and have a magazine with a differently shaped dimple on its magazine follower.

10. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

11. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

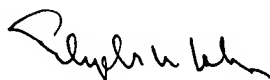
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mauser, Lee, Darsie et al., Steyr-Daimler-Pugh, Mauser-Werke, and Knoller disclose other state of the art magazines.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this

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application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ